

REMARKS

Reconsideration of the subject application is respectfully requested. Applicants note with appreciation the allowance of Claims 8-12, 15, 18, 20, 39, 40 and 43.

Claims 7, 33, 36 and 38 have been cancelled without prejudice or disclaimer of subject matter.

Independent Claims 13 and 16 were rejected under 35 U.S.C. 102(b) as being anticipated by Merki et al (5,002,055) and Koyama et al (5,101,831). These rejections are respectfully traversed especially in view of the foregoing amendments, which are intended to clarify particular features of the subject invention.

The present invention, as specifically recited in each of amended independent Claims 13 and 16 comprises, in part, a control means that outputs a drug emission command on the basis of a rhythm of at least one of a daily, monthly and annual cycle calculated by use of the indicator over a specified period of time in the past. It is respectfully submitted that such feature is neither shown nor suggested by the prior art, specifically Merki et al and Koyama et al. Please note that Merki does not disclose a device that utilizes a rhythm calculated by use of an indicator of a physiological state. Koyama et al discloses a device comprising an awakening stimulus generating means that is driven on the basis of a variation index calculated by use of a pulse wave signal of a user, but the variation index is not a rhythm of at least one of a daily, monthly and annual cycle, since the variation index of Koyama is a variation of indicators obtained over a time span of a sleeping period. Moreover, the device according to Koyama does not use a variation index calculated in the past for use in the future, but rather calculates a variation index in real-time.

Claims 14, 17, 19, 21-24, 41 and 42 are rejected under 35 U.S.C. 102(b) and/or 103(a) as being anticipated by or obvious in view of at least one of Merki et al, Koyama et al, Valcke et al (5,733,259), and Coutre et al (5,153,827). Claim 25 is objected to as being dependent upon a rejected base claim, namely Claims 13 and 16. These rejections and this objection are respectfully traversed because

Claims 14, 17, 19, 21-24, 41 and 42 are dependent upon Claim 13 and/or Claim 16, and are patentable for at least the same reasons as set forth above.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration of the present application.

NOTE

Applicants filed a Second Supplemental IDS that was received by the Patent Office on May 6, 2002, and a Third Supplemental IDS that was received by the Patent Office on August 13, 2003, as indicated on the attached page from the PAIR system. However, these IDSs have not yet been acknowledged by the Examiner. Also, applicants filed a Fifth Supplemental IDS that was received by the Patent Office on September 29, 2002, as indicated on the attached page from the PAIR system. It is respectfully requested that the forms PTO-1449 filed with each of these IDSs be initialed by the Examiner and returned to Applicants with the next office communication.

Respectfully submitted,



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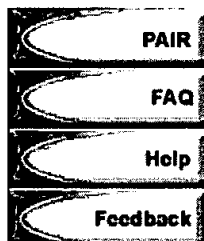
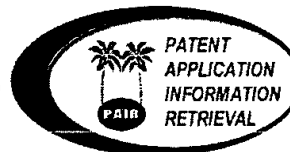
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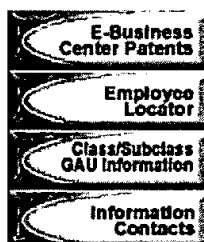
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First Named Inventor:	KAZUHIKO AMANO, SUWA-SHI, (JP)	Issue Date of Patent:	-
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